

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

x

Abeth Hashimi,

Plaintiff,

Case No.: **1:23-cv-02300-LDH-MMH**

-v-

**Conandy Realty LLC, and
Roma Crew INC**

Defendants.

x

**PLAINTIFF'S VERIFIED MOTION
FOR DEFAULT FINAL JUDGMENT
AGAINST DEFENDANTS CONANDY
REALTY LLC AND ROMA CREW INC**

I, MARIA-COSTANZA BARDUCCI, as Attorney for Plaintiff, pursuant to the Court's default judgment procedures as part of the Court's individual rules, declare, under penalties of perjury, the following:

Basis for Granting Motion for Default Judgment Pursuant to Fed. R. Civ. P. 55(b)(2)

1. This action was filed on March 26, 2023. The Defendant, **Conandy Realty LLC** has failed to respond, appear, or defend in this instant action. The Summons and Complaint [DE#1] were served on the Defendant, **Conandy Realty LLC** ("Defendant"), by service upon the Secretary of State on April 4, 2023. Defendant's time to answer or otherwise respond to the complaint expired on April 25, 2023 [DE#8]. To date, no Answer has been interposed on behalf of the Defendant. The Defendant is a limited liability company entity, and is not an individual in the military service, nor is the Defendant an infant or incompetent.

2. The Defendant, **Roma Crew INC** has failed to respond, appear, or defend in this instant action. The Summons and Complaint [DE#1] were served on the Defendant, **Roma Crew INC** ("Defendant"), by service upon the Secretary of State on April 4, 2023. Defendant's time to answer or otherwise respond to the complaint expired on April 25, 2023 [DE#9]. To date,

no Answer has been interposed on behalf of the Defendant. The Defendant is a corporate entity, and is not an individual in the military service, nor is the Defendant an infant or incompetent.

3. The Summons and Complaint were also mailed to the Defendants afterwards. Several attempts were made to contact the Defendants by USPS mail. Subsequently, Certificates of Default [DE#14 and DE#15] were entered against Defendants, **Conandy Realty LLC** and **Roma Crew Inc.**, on June 28, 2023. Defendants were notified by mail once the Default had been entered and that Plaintiff would move by Notice of Motion for Default Judgment against the non-responding Defendants if they continued to flout the Court's jurisdiction and Plaintiff's prosecution of this matter under Title III and all applicable ADA law. Plaintiff additionally served Defendants notice letters, indicating that if the party did not defend in this action, the Plaintiff would soon move for Default. Even after all of the foregoing documents were served by process server and/or mail, Defendants have failed to enter an appearance or respond in any way to the Plaintiff, and thereon appears unable or unwilling to defend themselves in this action and the only substantive and meaningful course of action is for the Court to Grant the Motion for Default Judgment. Given the current posture of the above-styled action, Plaintiff respectfully submits that he would prevail at trial if the Court had the opportunity to decide this case on its merits.

Procedural History

4. The within action was commenced on March 26, 2023. Defendants were served via the Secretary of State, on April 4, 2023. The time for Defendants to answer the Complaint expired on April 25, 2023. Plaintiff did not immediately move for Default and instead attempted several times to contact the Defendants regarding this lawsuit to no avail, even having staff of

Barducci Law Firm PLLC call the Restaurant multiple times over the course of the past several months, thereon affirming the public accommodation was still operating and conducting business with deliberate indifference to the discriminatory practices and uncontroverted violations of the ADA and ADAAG that which have denied the Plaintiff and all other similarly situated people equal access to goods and services as guaranteed under 42 U.S.C., § 12182. Thereafter, the judiciary followed with a June 29, 2023 Order directing the Plaintiff to move for Summary Judgment, on or before August 28, 2023 or otherwise Ordered To Show Cause why Plaintiff was not moving for Summary Judgment in this action.

5. Previously, the Plaintiff applied for Clerk Certificates with the Clerk of the Court on June 26, 2023 [DE#12 & 13], and soon after Clerk Certificates were entered [DE#14 and DE#15 annexed as Exhibits hereunto] against Defendants **Conandy Realty LLC** and **Roma Crew Inc.** respectively on June 28, 2023. Finally, the Plaintiff reserved both Defendants the summons and Complaint [DE#10], at their physical address as listed with the Department of the State, pursuant to the Court's June 12, Order.

Legal Basis for Finding Liability for Allegations in Complaint

6. This action was filed for injunctive relief pursuant to the Americans with Disabilities Act, 42 U.S.C., Section 12181, *et. seq.* (ADA) and 28 C.F.R., Part 26 (ADAAG). Plaintiff is a resident of the State of New York and this jurisdictional district. Plaintiff is a paraplegic and as a result is required to ambulate in a wheelchair. Plaintiff is a qualified individual under the ADA. Plaintiff's complaint seeks injunctive relief, specifically corrections of barriers to access located at the subject property: 165 Wilson Ave, Brooklyn, NY 11237, which is a restaurant and a place of public accommodation under the ADA and subject to Title III of the ADA.

7. Plaintiff will continue to suffer discrimination should the barriers to access remain at that property in violation of the ADA. The injunction sought by Plaintiff seeks an order to make all readily achievable alterations to the subject property so that it is readily accessible to and usable by individuals with disabilities to the extent required by the ADA; and to require the Defendants to make reasonable modifications in policies, practices or procedures, when such modifications are necessary to afford all offered goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities; and by failing to take such steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services. Plaintiff therefore requests that this Court Order Defendant's establishment closed pending the completion of all modifications.

Proposed Damages (Injunctive Relief and Request for Fees and Costs)

8. Despite the fact that the NYSHRL provides for monetary compensation, Plaintiff is not seeking monetary relief from the damages. Plaintiff is only seeking injunctive relief under the ADA and described in the Complaint [DE#1] filed in this action.

9. Plaintiff seeks injunctive relief under the ADA requiring that Defendants remove the following architectural barriers:

I. ACCESSIBLE ROUTE TO ESTABLISHMENT NOT PROVIDED AS REQUIRED. ACCESSIBLE MEANS OF EGRESS NOT PROVIDED AS REQUIRED. THE FIRST OF TWO ENTRANCES IS INACCESSIBLE. EXISTING STEPS AT THE FIRST OF TWO ENTRANCES ACTS AS A BARRIER TO ACCESSIBILITY. REQUIRED RAMP NOT PROVIDED FOR STEPS AT THE FIRST OF TWO ENTRANCES.

ADAAG 206 Accessible Routes ADAAG 206.1 General.

Accessible routes shall be provided in accordance with 206 and shall comply with Chapter 4. ADAAG 206.2 Where Required.

Accessible routes shall be provided where required by 206.2.

ADAAG 206.2.1 Site Arrival Points. At least one accessible route shall be provided within the site from accessible parking spaces and accessible passenger loading zones; public streets and sidewalks; and public transportation stops to the accessible building or facility entrance they serve. ADAAG 206.4 Entrances.

Entrances shall be provided in accordance with 206.4. Entrance doors, doorways, and gates shall comply with 404 and shall be on an accessible route complying with 402. ADAAG 207 Accessible Means of Egress ADAAG 207.1 General.

Means of egress shall comply with section 1003.2.13 of the International Building Code (2000 edition and 2001 Supplement) or section 1007 of the International Building Code (2003 edition) (incorporated by reference,

“Referenced Standards” in Chapter 1). ADAAG 402 Accessible Routes ADAAG 402.1 General. Accessible routes shall comply with 402. ADAAG 402.2

Components. Accessible routes shall consist of one or more of the following components: walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4. ADAAG 403 Walking Surfaces ADAAG 403.4

Changes in Level. Changes in level shall comply with 303

ADAAG 303.4 Ramps. Changes in level greater than ½ inch high shall be ramped, and shall comply with 405 or 406.

II. REQUIRED MINIMUM MANEUVERING CLEARANCE NOT PROVIDED AT DOOR OF THE FIRST OF TWO ENTRANCES. NON-COMPLIANT CHANGE IN FLOOR LEVEL WITHIN REQUIRED MANEUVERING CLEARANCE AT DOOR OF THE FIRST OF TWO ENTRANCES.

ADAAG 206 Accessible Routes ADAAG 206.1 General.

Accessible routes shall be provided in accordance with 206 and shall comply with Chapter 4. ADAAG 206.2 Where Required. Accessible routes shall be provided where required by 206.2. ADAAG 206.2.1 Site Arrival Points. At least one accessible route shall be provided within the site from accessible parking spaces and accessible passenger loading zones; public streets and sidewalks; and public transportation stops to the accessible building or facility entrance they serve. ADAAG 206.4 Entrances. Entrances shall be provided in accordance with 206.4. Entrance doors, doorways, and gates shall comply with 404 and shall be on an accessible route complying with 402. ADAAG 206.4.1 Public Entrances. In addition to entrances required by 206.4.2 through 206.4.9, at least 60 percent of all public entrances shall comply with 404.

ADAAG 207 Accessible Means of Egress ADAAG 207.1 General. Means of

egress shall comply with section 1003.2.13 of the International Building Code (2000 edition and 2001 Supplement) or section 1007 of the International Building Code (2003 edition) (incorporated by reference, "Referenced Standards" in Chapter 1) ADAAG 404.2.4 Maneuvering Clearances. Minimum maneuvering clearances at doors and gates shall comply with 404.2.4. Maneuvering clearances shall extend the full width of the doorway and the required latch side or hinge side clearance. ADAAG 404.2.4.4 Floor or Ground Surface. Floor or ground surface within required maneuvering clearances shall comply with 302. Changes in level are not permitted.

III. THE SECOND OF TWO ENTRANCES IS INACCESSIBLE. EXISTING STEPS AT THE SECOND OF TWO ENTRANCES ACTS AS A BARRIER TO ACCESSIBILITY. REQUIRED RAMP NOT PROVIDED FOR STEPS AT THE SECOND OF TWO ENTRANCES.

ADAAG 206 Accessible Routes ADAAG 206.1 General.

Accessible routes shall be provided in accordance with 206 and shall comply with Chapter 4. ADAAG 206.2 Where Required.

Accessible routes shall be provided where required by 206.2.

ADAAG 206.2.1 Site Arrival Points. At least one accessible route shall be provided within the site from accessible parking spaces and accessible passenger loading zones; public streets and sidewalks; and public transportation stops to the accessible building or facility entrance they serve. ADAAG 206.4 Entrances. Entrances shall be provided in accordance with 206.4. Entrance doors, doorways, and gates shall comply with 404 and shall be on an accessible route complying with 402. ADAAG 207 Accessible Means of Egress ADAAG 207.1 General.

Means of egress shall comply with section 1003.2.13 of the International Building Code (2000 edition and 2001 Supplement) or section 1007 of the International Building Code (2003 edition) (incorporated by reference, "Referenced Standards" in Chapter 1). ADAAG 402 Accessible Routes ADAAG 402.1 General. Accessible routes shall comply with 402. ADAAG 402.2 Components. Accessible routes shall consist of one or more of the following components: walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4. ADAAG 403 Walking Surfaces ADAAG 403.4 Changes in Level. Changes in level shall comply with 303 ADAAG 303.4 Ramps. Changes in level greater than ½ inch high shall be ramped, and shall comply with 405 or 406.

IV. REQUIRED MINIMUM MANEUVERING CLEARANCE NOT PROVIDED AT DOOR OF THE SECOND OF TWO ENTRANCES. NON-COMPLIANT CHANGE IN FLOOR LEVEL WITHIN REQUIRED MANEUVERING CLEARANCE AT DOOR OF THE SECOND OF TWO ENTRANCES.

ADAAG 206 Accessible Routes ADAAG 206.1 General.

Accessible routes shall be provided in accordance with 206 and shall comply with Chapter 4. ADAAG 206.2 Where Required. Accessible routes shall be provided where required by 206.2. ADAAG 206.2.1 Site Arrival Points. At least one accessible route shall be provided within the site from accessible parking spaces and accessible passenger loading zones; public streets and sidewalks; and public transportation stops to the accessible building or facility entrance they serve. ADAAG 206.4 Entrances. Entrances shall be provided in accordance with 206.4. Entrance doors, doorways, and gates shall comply with 404 and shall be on an accessible route complying with 402. ADAAG 206.4.1 Public Entrances. In addition to entrances required by 206.4.2 through 206.4.9, at least 60 percent of all public entrances shall comply with 404.

ADAAG 207 Accessible Means of Egress ADAAG 207.1 General.

Means of egress shall comply with section 1003.2.13 of the International Building Code (2000 edition and 2001 Supplement) or section 1007 of the International Building Code (2003 edition) (incorporated by reference, "Referenced Standards" in Chapter 1) ADAAG 404.2.4 Maneuvering Clearances. Minimum maneuvering clearances at doors and gates shall comply with 404.2.4. Maneuvering clearances shall extend the full width of the doorway and the required latch side or hinge side clearance. ADAAG 404.2.4.4 Floor or Ground Surface. Floor or ground surface within required maneuvering clearances shall comply with 302. Changes in level are not permitted.

V. INACCESSIBLE DINING TABLES LOCATED AT EXTERIOR

SIDEWALK DINING AREA. REQUIRED MINIMUM KNEE AND TOE CLEARANCE NOT PROVIDED AT DINING TABLES LOCATED AT EXTERIOR SIDEWALK DINING AREA. A MINIMUM PERCENTAGE OF EXISTING DINING TABLES REQUIRED TO BE ACCESSIBLE NOT PROVIDED AT EXTERIOR SIDEWALK DINING AREA.

ADAAG 226 Dining Surfaces and Work Surfaces ADAAG 226.1 General.

Where dining surfaces are provided for the consumption of food or drink, at least 5 percent of the seating spaces and standing spaces at the dining surfaces shall comply with 902. ADAAG 902 Dining Surfaces and Work Surfaces ADAAG 902.1 General. Dining surfaces and work surfaces shall comply with 902.2 and 902.3. ADAAG 902.2 Clear Floor or Ground Space.

A clear floor space complying with 305 positioned for a forward approach shall be provided. Knee and toe clearance complying with 306 shall be provided.

ADAAG 306.2 Toe Clearance. ADAAG 306.2.3 Minimum Required Depth.

Where toe clearance is required at an element as part of a clear floor space, the toe clearance shall extend 17 inches (430 mm) minimum under the element.

ADAAG 306.2.5 Width. Toe clearance shall be 30 inches (760 mm) wide minimum.

ADAAG 306.3 Knee Clearance. ADAAG 306.3.3 Minimum Required Depth. Where knee clearance is required under an element as part of a clear floor space, the knee clearance shall be 11 inches deep minimum at 9 inches above the ground, and 8 inches deep minimum at 27 inches (685 mm) above the finish floor or ground. ADAAG 306.3.5 Width. Knee clearance shall be 30 inches (760 mm) wide minimum.

VI. INACCESSIBLE DINING TABLES LOCATED AT EXTERIOR DINING COMPARTMENT. REQUIRED MINIMUM KNEE AND TOE CLEARANCE NOT PROVIDED AT DINING TABLES LOCATED AT EXTERIOR DINING COMPARTMENT. A MINIMUM PERCENTAGE OF EXISTING DINING TABLES REQUIRED TO BE ACCESSIBLE NOT PROVIDED AT EXTERIOR DINING COMPARTMENT.

ADAAG 226 Dining Surfaces and Work Surfaces ADAAG 226.1 General. Where dining surfaces are provided for the consumption of food or drink, at least 5 percent of the seating spaces and standing spaces at the dining surfaces shall comply with 902. ADAAG 902 Dining Surfaces and Work Surfaces ADAAG 902.1 General. Dining surfaces and work surfaces shall comply with 902.2 and 902.3. ADAAG 902.2 Clear Floor or Ground Space. A clear floor space complying with 305 positioned for a forward approach shall be provided. Knee and toe clearance complying with 306 shall be provided. ADAAG 306.2 Toe Clearance. ADAAG 306.2.3 Minimum Required Depth. Where toe clearance is required at an element as part of a clear floor space, the toe clearance shall extend 17 inches (430 mm) minimum under the element. ADAAG 306.2.5 Width. Toe clearance shall be 30 inches (760 mm) wide minimum. ADAAG 306.3 Knee Clearance. ADAAG 306.3.3 Minimum Required Depth. Where knee clearance is required under an element as part of a clear floor space, the knee clearance shall be 11 inches deep minimum at 9 inches above the ground, and 8 inches deep minimum at 27 inches (685 mm) above the finish floor or ground. ADAAG 306.3.5 Width. Knee clearance shall be 30 inches (760 mm) wide minimum.

VII. INACCESSIBLE DINING TABLES LOCATED AT INTERIOR DINING AREA. REQUIRED MINIMUM KNEE AND TOE CLEARANCE NOT PROVIDED AT DINING TABLES LOCATED AT INTERIOR DINING AREA. A MINIMUM PERCENTAGE OF EXISTING DINING TABLES REQUIRED TO BE ACCESSIBLE NOT PROVIDED AT INTERIOR DINING AREA.

ADAAG 226 Dining Surfaces and Work Surfaces ADAAG 226.1 General.

Where dining surfaces are provided for the consumption of food or drink, at least 5 percent of the seating spaces and standing spaces at the dining surfaces shall comply with 902. ADAAG 902 Dining Surfaces and Work Surfaces ADAAG 902.1 General. Dining surfaces and work surfaces shall comply with 902.2 and 902.3. ADAAG 902.2 Clear Floor or Ground Space.

A clear floor space complying with 305 positioned for a forward approach shall be provided. Knee and toe clearance complying with 306 shall be provided.

ADAAG 306.2 Toe Clearance. ADAAG 306.2.3 Minimum Required Depth.

Where toe clearance is required at an element as part of a clear floor space, the toe clearance shall extend 17 inches (430 mm) minimum under the element.

ADAAG 306.2.5 Width. Toe clearance shall be 30 inches (760 mm) wide minimum.

ADAAG 306.3 Knee Clearance. ADAAG 306.3.3 Minimum Required Depth.

Where knee clearance is required under an element as part of a clear floor space, the knee clearance shall be 11 inches deep minimum at 9 inches above the ground, and 8 inches deep minimum at 27 inches (685 mm) above the finish floor or ground. ADAAG 306.3.5 Width. Knee clearance shall be 30 inches (760 mm) wide minimum.

VIII. INACCESSIBLE BAR. NON-COMPLIANT HEIGHT OF BAR EXCEEDS MAXIMUM HEIGHT ALLOWANCE. REQUIRED MINIMUM KNEE AND TOE CLEARANCE NOT PROVIDED AT BAR. PORTION OF BAR REQUIRED TO BE ACCESSIBLE NOT PROVIDED.

ADAAG 226 Dining Surfaces and Work Surfaces ADAAG 226.1 General.

Where dining surfaces are provided for the consumption of food or drink, at least 5 percent of the seating spaces and standing spaces at the dining surfaces shall comply with 902. ADAAG 902 Dining Surfaces and Work Surfaces ADAAG 902.1 General. Dining surfaces and work surfaces shall comply with 902.2 and 902.3. Advisory 902.1 General. Dining surfaces include, but are not limited to, bars, tables, lunch counters, and booths. ADAAG 902.2 Clear Floor or Ground Space. A clear floor space complying with 305 positioned for a forward approach shall be provided. Knee and toe clearance complying with 306 shall be provided.

ADAAG 902.3 Height. The tops of dining surfaces and work surfaces shall be 28 inches (710 mm) minimum and 34 inches (865 mm) maximum above the finish floor or ground. ADAAG 306.2 Toe Clearance. ADAAG 306.2.3 Minimum Required Depth. Where toe clearance is required at an element as part of a clear

floor space, the toe clearance shall extend 17 inches (430 mm) minimum under the element.

ADAAG 306.2.5 Width. Toe clearance shall be 30 inches (760 mm) wide minimum.

ADAAG 306.3 Knee Clearance. ADAAG 306.3.3 Minimum Required Depth.

Where knee clearance is required under an element as part of a clear floor space, the knee clearance shall be 11 inches deep minimum at 9 inches above the ground, and 8 inches deep minimum at 27 inches (685 mm) above the finish floor or ground. ADAAG 306.3.5 Width. Knee clearance shall be 30 inches (760 mm) wide minimum.

IX. INACCESSIBLE MEN'S RESTROOM. REQUIRED MINIMUM CLEAR WIDTH NOT PROVIDED AT DOOR OF MEN'S RESTROOM.

ADAAG 206 Accessible Routes ADAAG 206.1 General.

Accessible routes shall be provided in accordance with 206 and shall comply with Chapter 4. ADAAG 402 Accessible Routes ADAAG 402.1 General.

Accessible routes shall comply with 402. ADAAG 402.2 Components. Accessible routes shall consist of one or more of the following components: walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4. ADAAG 404.2.3 Clear Width. Door openings shall provide a clear width of 32 inches (815 mm) minimum. Clear openings of doorways with swinging doors shall be measured between the face of the door and the stop, with the door open 90 degrees.

X. REQUIRED MINIMUM MANEUVERING CLEARANCE NOT PROVIDED AT DOOR OF MEN'S RESTROOM.

ADAAG 206 Accessible Routes ADAAG 206.1 General.

Accessible routes shall be provided in accordance with 206 and shall comply with Chapter 4. ADAAG 402 Accessible Routes ADAAG 402.1 General.

Accessible routes shall comply with 402. ADAAG 402.2 Components. Accessible routes shall consist of one or more of the following components: walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4. ADAAG 404.2.4 Maneuvering Clearances. Minimum maneuvering clearances at doors and gates shall comply with 404.2.4. Maneuvering clearances shall extend the full width of the doorway and the required latch side or hinge side clearance.

XI. INACCESSIBLE DOOR LOCK AT DOOR OF MEN'S RESTROOM. NON-COMPLIANT HEIGHT OF DOOR LOCK AT DOOR OF MEN'S RESTROOM EXCEEDS MAXIMUM HEIGHT ALLOWANCE.

ADAAG 404 Doors, Doorways, and Gates ADAAG 404.1 General.

Doors, doorways, and gates that are part of an accessible route shall comply with 404. ADAAG 404.2.7 Door and Gate Hardware.

Handles, pulls, latches, locks, and other operable parts on doors and gates shall comply with 309.4. Operable parts of such hardware shall be 34 inches (865 mm) minimum and 48 inches (1220 mm) maximum above the finish floor or ground.

XII. REQUIRED MINIMUM TURNING SPACE NOT PROVIDED IN MEN'S RESTROOM.

ADAAG 603 Toilet and Bathing Rooms ADAAG 603.1 General. Toilet and bathing rooms shall comply with 603. ADAAG 603.2 Clearances. Clearances shall comply with 603.2. ADAAG 603.2.1 Turning Space. Turning space complying with 304 shall be provided within the room. ADAAG 304.3.1 Circular Space. The turning space shall be a space of 60 inches (1525 mm) diameter minimum. The space shall be permitted to include knee and toe clearance complying with 306

XIII. INACCESSIBLE FIXTURES IN MEN'S RESTROOM. REQUIRED MINIMUM CLEAR WIDTH NOT PROVIDED AT TRAVEL PATH TO FIXTURES IN MEN'S RESTROOM.

ADAAG 402 Accessible Routes ADAAG 402.1 General.

Accessible routes shall comply with 402.

ADAAG 402.2 Components. Accessible routes shall consist of one or more of the following components: walking surfaces with a running slope not steeper than 1:20, doorways, ramps, curb ramps excluding the flared sides, elevators, and platform lifts. All components of an accessible route shall comply with the applicable requirements of Chapter 4. ADAAG 403 Walking Surfaces ADAAG 403.1 General. Walking surfaces that are a part of an accessible route shall comply with 403. ADAAG 403.5.1 Clear Width. Except as provided in 403.5.2 and 403.5.3, the clear width of walking surfaces shall be 36 inches (915 mm) minimum.

XIV. REQUIRED MINIMUM CLEAR FLOOR SPACE NOT PROVIDED AT LAVATORY IN MEN'S RESTROOM.

ADAAG 606 Lavatories and Sinks. ADAAG 606.2 Clear Floor Space. A clear floor space complying with 305, positioned for a forward approach, and knee and toe clearance complying with 306 shall be provided.

ADAAG 305.3 Size. The clear floor or ground space shall be 30 inches (760 mm) minimum by 48 inches (1220 mm) minimum.

**XV. INSULATION OF PIPES AND WATER LINES UNDER THE
LAVATORY IN MEN'S RESTROOM NOT PROVIDED AS
REQUIRED.**

ADAAG 606 Lavatories and Sinks. ADAAG 606.5 Exposed Pipes and Surfaces. Water supply and drain pipes under lavatories and sinks shall be insulated or otherwise configured to protect against contact. There shall be no sharp or abrasive surfaces under lavatories and sinks.

**XVI. REQUIRED CLEAR FLOOR SPACE NOT PROVIDED AT
URINAL IN MEN'S RESTROOM.**

ADAAG 605 Urinals ADAAG 605.3 Clear Floor Space. A clear floor or ground space complying with 305 positioned for forward approach shall be provided. ADAAG 305.3 Size. The clear floor or ground space shall be 30 inches (760 mm) minimum by 48 inches (1220 mm) minimum.

**XVII. NON-COMPLIANT HEIGHT OF WALL MOUNTED URINAL IN
MEN'S RESTROOM EXCEEDS MAXIMUM HEIGHT
ALLOWANCE.**

ADAAG 605 Urinals ADAAG 605.1 General. Urinals shall comply with 605. ADAAG 605.2 Height and Depth. Urinals shall be the stall-type or the wall-hung type with the rim 17 inches (430 mm) maximum above the finish floor or ground. Urinals shall be 13½ inches (345 mm) deep minimum measured from the outer face of the urinal rim to the back of the fixture

**XVIII. REQUIRED MINIMUM CLEARANCE NOT PROVIDED AT
WATER CLOSET IN MEN'S RESTROOM.**

ADAAG 604 Water Closets and Toilet Compartments
ADAAG 604.3 Clearance. Clearances around water closets and in toilet compartments shall comply with 604.3. ADAAG 604.3.1 Size. Clearance around a water closet shall be 60 inches (1525 mm) minimum measured perpendicular from the side wall and 56 inches (1420 mm) minimum measured perpendicular from the rear wall.

**XIX. REQUIRED GRAB BARS NOT PROVIDED ON REAR AND SIDE
WALLS OF WATER CLOSET IN MEN'S RESTROOM.**

ADAAG 604 Water Closets and Toilet Compartments

ADAAG 604.5 Grab Bars. Grab bars for water closets shall comply with 609. Grab bars shall be provided on the side wall closest to the water closet and on the rear wall.

XX. INACCESSIBLE FLUSH CONTROL AT WATER CLOSET IN
MEN'S RESTROOM. NON-COMPLIANT POSITION OF FLUSH
CONTROL LOCATED AT CLOSED SIDE OF WATER CLOSET
IN MEN'S RESTROOM.

ADAAG 604 Water Closets and Toilet Compartments.

ADAAG 604.6 Flush Controls.

Flush controls shall be hand operated or automatic. Hand operated flush controls shall comply with 309. Flush controls shall be located on the open side of the water closet except in ambulatory accessible compartments complying with 604.8.2.

XXI. THE FIRST OF FOUR COAT HOOKS IN MEN'S RESTROOM IS
INACCESSIBLE. NON-COMPLIANT HEIGHT OF THE FIRST OF
FOUR COAT HOOKS IN MEN'S RESTROOM EXCEEDS MAXIMUM
HEIGHT ALLOWANCE.

ADAAG 604 Water Closets and Toilet Compartments.

ADAAG 604.8.3 Coat Hooks and Shelves.

Coat hooks shall be located within one of the reach ranges specified in 308.

ADAAG 308.2 Forward Reach. ADAAG 308.2.1 Unobstructed.

Where a forward reach is unobstructed, the high forward reach shall be 48 inches maximum and the low forward reach shall be 15 inches minimum above the finish floor or ground.

ADAAG 308.2.2 Obstructed High Reach.

Where a high forward reach is over an obstruction, the clear floor space shall extend beneath the element for a distance not less than the required reach depth over the obstruction. The high forward reach shall be 48 inches maximum where the reach depth is 20 inches maximum. Where the reach depth exceeds 20 inches, the high forward reach shall be 44 inches maximum and the reach depth shall be 25 inches maximum.

ADAAG 308.3 Side Reach. ADAAG 308.3.1 Unobstructed.

Where a clear floor or ground space allows a parallel approach to an element and the side reach is unobstructed, the high side reach shall be 48 inches maximum and the low side reach shall be 15 inches minimum above the finish floor or ground. ADAAG 308.3.2 Obstructed High Reach. Where a clear floor or ground space allows a parallel approach to an element and the high side reach is over an

obstruction, the height of the obstruction shall be 34 inches maximum and the depth of the obstruction shall be 24 inches maximum. The high side reach shall be 48 inches maximum for a reach depth of 10 inches maximum. Where the reach depth exceeds 10 inches, the high side reach shall be 46 inches maximum for a reach depth of 24 inches maximum.

**XXII. THE SECOND OF FOUR COAT HOOKS IN MEN'S RESTROOM IS
INACCESSIBLE. NON-COMPLIANT HEIGHT OF THE SECOND OF
FOUR COAT HOOKS IN MEN'S RESTROOM EXCEEDS MAXIMUM
HEIGHT ALLOWANCE.**

ADAAG 604.8.3 Coat Hooks and Shelves.

Coat hooks shall be located within one of the reach ranges specified in 308.

ADAAG 308.2 Forward Reach. ADAAG 308.2.1 Unobstructed.

Where a forward reach is unobstructed, the high forward reach shall be 48 inches maximum and the low forward reach shall be 15 inches minimum above the finish floor or ground. ADAAG 308.2.2 Obstructed High Reach.

Where a high forward reach is over an obstruction, the clear floor space shall extend beneath the element for a distance not less than the required reach depth over the obstruction. The high forward reach shall be 48 inches maximum where the reach depth is 20 inches maximum. Where the reach depth exceeds 20 inches, the high forward reach shall be 44 inches maximum and the reach depth shall be 25 inches maximum.

ADAAG 308.3 Side Reach. ADAAG 308.3.1 Unobstructed.

Where a clear floor or ground space allows a parallel approach to an element and the side reach is unobstructed, the high side reach shall be 48 inches maximum and the low side reach shall be

15 inches minimum above the finish floor or ground.

ADAAG 308.3.2 Obstructed High Reach.

Where a clear floor or ground space allows a parallel approach to an element and the high side reach is over an obstruction, the height of the obstruction shall be 34 inches maximum and the depth of the obstruction shall be 24 inches maximum. The high side reach shall be 48 inches maximum for a reach depth of 10 inches maximum. Where the reach depth exceeds 10 inches, the high side reach shall be 46 inches maximum for a reach depth of 24 inches maximum.

**XXIII. THE THIRD OF FOUR COAT HOOKS IN MEN'S RESTROOM IS
INACCESSIBLE. NON-COMPLIANT HEIGHT OF THE THIRD OF
FOUR COAT HOOKS IN MEN'S RESTROOM EXCEEDS MAXIMUM
HEIGHT ALLOWANCE.**

ADAAG 604 Water Closets and Toilet Compartments.

ADAAG 604.8.3 Coat Hooks and Shelves.

Coat hooks shall be located within one of the reach ranges specified in 308.

ADAAG 308.2 Forward Reach. ADAAG 308.2.1 Unobstructed.

Where a forward reach is unobstructed, the high forward reach shall be 48 inches maximum and the low forward reach shall be 15 inches minimum above the finish floor or ground. ADAAG 308.2.2 Obstructed High Reach.

Where a high forward reach is over an obstruction, the clear floor space shall extend beneath the element for a distance not less than the required reach depth over the obstruction. The high forward reach shall be 48 inches maximum where the reach depth is 20 inches maximum. Where the reach depth exceeds 20 inches, the high forward reach shall be 44 inches maximum and the reach depth shall be 25 inches maximum. ADAAG 308.3 Side Reach.

ADAAG 308.3.1 Unobstructed. Where a clear floor or ground space allows a parallel approach to an element and the side reach is unobstructed, the high side reach shall be 48 inches maximum and the low side reach shall be 15 inches minimum above the finish floor or ground. ADAAG 308.3.2 Obstructed High Reach. Where a clear floor or ground space allows a parallel approach to an element and the high side reach is over an obstruction, the height of the obstruction shall be 34 inches maximum and the depth of the obstruction shall be 24 inches maximum. The high side reach shall be 48 inches maximum for a reach depth of 10 inches maximum, the reach depth exceeds 10 inches, the high side reach shall be 46 inches maximum for a reach depth of 24 inches maximum.

XXIV. THE FOURTH OF FOUR COAT HOOKS IN MEN'S RESTROOM IS
INACCESSIBLE. NON-COMPLIANT HEIGHT OF THE FOURTH OF
FOUR COAT HOOKS IN MEN'S RESTROOMS EXCEEDS MAXIMUM
HEIGHT ALLOWANCE.

ADAAG 604 Water Closets and Toilet Compartments.

ADAAG 604.8.3 Coat Hooks and Shelves.

Coat hooks shall be located within one of the reach ranges specified in 308.

ADAAG 308.2 Forward Reach. ADAAG 308.2.1 Unobstructed.

Where a forward reach is unobstructed, the high forward reach shall be 48 inches maximum and the low forward reach shall be 15 inches minimum above the finish floor or ground.

ADAAG 308.2.2 Obstructed High Reach.

Where a high forward reach is over an obstruction, the clear floor space shall extend beneath the element for a distance not less than the required reach depth over the obstruction. The high forward reach shall be 48 inches maximum where the reach depth is 20 inches maximum. Where the reach depth exceeds 20 inches, the high forward reach shall be 44 inches maximum and the reach depth shall be 25 inches maximum.

ADAAG 308.3 Side Reach. ADAAG 308.3.1 Unobstructed.

Where a clear floor or ground space allows a parallel approach to an element and the side reach is unobstructed, the high side reach shall be 48 inches maximum

and the low side reach shall be
15 inches minimum above the finish floor or ground.

ADAAG 308.3.2 Obstructed High Reach.

Where a clear floor or ground space allows a parallel approach to an element and the high side reach is over an obstruction, the height of the obstruction shall be 34 inches maximum and the depth of the obstruction shall be 24 inches maximum. The high side reach shall be 48 inches maximum for a reach depth of 10 inches maximum. Where the reach depth exceeds 10 inches, the high side reach shall be 46 inches maximum for a reach depth of 24 inches maximum.

**XXV. INACCESSIBLE WATER CLOSET IN WOMEN'S RESTROOM.
REQUIRED MINIMUM CLEARANCE NOT PROVIDED AT WATER CLOSET
IN WOMEN'S RESTROOM.**

ADAAG 604 Water Closets and Toilet Compartments ADAAG 604.3 Clearance. Clearances around water closets and in toilet compartments shall comply with 604.3. ADAAG 604.3.1 Size. Clearance around a water closet shall be 60 inches (1525 mm) minimum measured perpendicular from the side wall and 56 inches (1420 mm) minimum measured perpendicular from the rear wall.

**XXVI. NON-COMPLIANT EXISTING GRAB BAR AT REAR WALL OF
WATER CLOSET IN WOMEN'S RESTROOM DOES NOT MEET
MINIMUM SIZE REQUIREMENT.**

ADAAG 604 Water Closets and Toilet Compartments

ADAAG 604.5.2 Rear Wall. The rear wall grab bar shall be 36 inches (915 mm) long minimum and extend from the centerline of the water closet 12 inches (305 mm) minimum on one side and 24 inches (610 mm) minimum on the other side.

**XXVII. INACCESSIBLE FLUSH CONTROL AT WATER CLOSET IN
WOMEN'S RESTROOM. NON-COMPLIANT POSITION OF FLUSH
CONTROL LOCATED AT CLOSED SIDE OF WATER CLOSET IN
WOMEN'S RESTROOM.**

ADAAG 604 Water Closets and Toilet Compartments.

ADAAG 604.6 Flush Controls. Flush controls shall be hand operated or automatic. Hand operated flush controls shall comply with 309. Flush controls shall be located on the open side of the water closet except in ambulatory accessible compartments complying with 604.8.2.

XXVIII. THE FIRST OF FOUR COAT HOOKS IN WOMEN'S RESTROOM IS INACCESSIBLE. NON-COMPLIANT HEIGHT OF THE FIRST OF FOUR COAT HOOKS IN WOMEN'S RESTROOM EXCEEDS MAXIMUM HEIGHT ALLOWANCE.

ADAAG 604 Water Closets and Toilet Compartments.

ADAAG 604.8.3 Coat Hooks and Shelves.

Coat hooks shall be located within one of the reach ranges specified in 308.

ADAAG 308.2 Forward Reach. ADAAG 308.2.1 Unobstructed.

Where a forward reach is unobstructed, the high forward reach shall be 48 inches maximum and the low forward reach shall be 15 inches minimum above the finish floor or ground. ADAAG 308.2.2 Obstructed High Reach.

Where a high forward reach is over an obstruction, the clear floor space shall extend beneath the element for a distance not less than the required reach depth over the obstruction. The high forward reach shall be 48 inches maximum where the reach depth is 20 inches maximum. Where the reach depth exceeds 20 inches, the high forward reach shall be 44 inches maximum and the reach depth shall be 25 inches maximum. ADAAG 308.3 Side Reach. ADAAG 308.3.1 Unobstructed. Where a clear floor or ground space allows a parallel approach to an element and the side reach is unobstructed, the high side reach shall be 48 inches maximum and the low side reach shall be 15 inches minimum above the finish floor or ground. ADAAG 308.3.2 Obstructed High Reach. Where a clear floor or ground space allows a parallel approach to an element and the high side reach is over an obstruction, the height of the obstruction shall be 34 inches maximum and the depth of the obstruction shall be 24 inches maximum. The high side reach shall be 48 inches maximum for a reach depth of 10 inches maximum. Where the reach depth exceeds 10 inches, the high side reach shall be 46 inches maximum for a reach depth of 24 inches maximum.

XXIX. THE SECOND OF FOUR COAT HOOKS IN WOMEN'S RESTROOM IS INACCESSIBLE. NON-COMPLIANT HEIGHT OF THE SECOND OF FOUR COAT HOOKS IN WOMEN'S RESTROOM EXCEEDS MAXIMUM HEIGHT ALLOWANCE.

ADAAG 604 Water Closets and Toilet Compartments.

ADAAG 604.8.3 Coat Hooks and Shelves.

Coat hooks shall be located within one of the reach ranges specified in 308.

ADAAG 308.2 Forward Reach. ADAAG 308.2.1 Unobstructed.

Where a forward reach is unobstructed, the high forward reach shall be 48 inches maximum and the low forward reach shall be 15 inches minimum above the finish floor or ground. ADAAG 308.2.2 Obstructed High Reach.

Where a high forward reach is over an obstruction, the clear floor space shall

extend beneath the element for a distance not less than the required reach depth over the obstruction. The high forward reach shall be 48 inches maximum where the reach depth is 20 inches maximum. Where the reach depth exceeds 20 inches, the high forward reach shall be 44 inches maximum and the reach depth shall be 25 inches maximum. ADAAG 308.3 Side Reach. ADAAG 308.3.1 Unobstructed. Where a clear floor or ground space allows a parallel approach to an element and the side reach is unobstructed, the high side reach shall be 48 inches maximum and the low side reach shall be 15 inches minimum above the finish floor or ground. ADAAG 308.3.2 Obstructed High Reach. Where a clear floor or ground space allows a parallel approach to an element and the high side reach is over an obstruction, the height of the obstruction shall be 34 inches maximum and the depth of the obstruction shall be 24 inches maximum. The high side reach shall be 48 inches maximum for a reach depth of 10 inches maximum. Where the reach depth exceeds 10 inches, the high side reach shall be 46 inches maximum for a reach depth of 24 inches maximum.

XXX. THE THIRD OF FOUR COAT HOOKS IN WOMEN'S RESTROOM IS
INACCESSIBLE. NON-COMPLIANT HEIGHT OF THE THIRD OF
FOUR COAT HOOKS IN WOMEN'S RESTROOM EXCEEDS
MAXIMUM HEIGHT ALLOWANCE.

ADAAG 604 Water Closets and Toilet Compartments.

ADAAG 604.8.3 Coat Hooks and Shelves.

Coat hooks shall be located within one of the reach ranges specified in 308.

ADAAG 308.2 Forward Reach. ADAAG 308.2.1 Unobstructed.

Where a forward reach is unobstructed, the high forward reach shall be 48 inches maximum and the low forward reach shall be 15 inches minimum above the finish floor or ground. ADAAG 308.2.2 Obstructed High Reach.

Where a high forward reach is over an obstruction, the clear floor space shall extend beneath the element for a distance not less than the required reach depth over the obstruction. The high forward reach shall be 48 inches maximum where the reach depth is 20 inches maximum. Where the reach depth exceeds 20 inches, the high forward reach shall be 44 inches maximum and the reach depth shall be 25 inches maximum. ADAAG 308.3 Side Reach. ADAAG

308.3.1 Unobstructed. Where a clear floor or ground space allows a parallel approach to an element and the side reach is unobstructed, the high side reach shall be 48 inches maximum and the low side reach shall be 15 inches minimum above the finish floor or ground. ADAAG 308.3.2 Obstructed High Reach.

Where a clear floor or ground space allows a parallel approach to an element and the high side reach is over an obstruction, the height of the obstruction shall be 34 inches maximum and the depth of the obstruction shall be 24 inches maximum. The high side reach shall be 48 inches maximum for a reach depth of 10 inches maximum. Where the reach depth exceeds 10 inches, the high side reach shall be 46 inches maximum for a reach depth of 24 inches maximum.

XXXI. THE FOURTH OF FOUR COAT HOOKS IN WOMEN'S
RESTROOM IS INACCESSIBLE. NON-COMPLIANT HEIGHT
OF THE FOURTH OF FOUR COAT HOOKS IN WOMEN'S
RESTROOM EXCEEDS MAXIMUM HEIGHT
ALLOWANCE.

ADAAG 604 Water Closets and Toilet Compartments.

ADAAG 604.8.3 Coat Hooks and Shelves. Coat hooks shall be located within one of the reach ranges specified in 308. ADAAG 308.2 Forward Reach. ADAAG 308.2.1 Unobstructed. Where a forward reach is unobstructed, the high forward reach shall be 48 inches maximum and the low forward reach shall be 15 inches minimum above the finish floor or ground. ADAAG 308.2.2 Obstructed High Reach.

Where a high forward reach is over an obstruction, the clear floor space shall extend beneath the element for a distance not less than the required reach depth over the obstruction. The high forward reach shall be 48 inches maximum where the reach depth is 20 inches maximum. Where the reach depth exceeds 20 inches, the high forward reach shall be 44 inches maximum and the reach depth shall be 25 inches maximum. ADAAG 308.3 Side Reach. ADAAG 308.3.1 Unobstructed. Where a clear floor or ground space allows a parallel approach to an element and the side reach is unobstructed, the high side reach shall be 48 inches maximum and the low side reach shall be 15 inches minimum above the finish floor or ground. ADAAG 308.3.2 Obstructed High Reach.

Where a clear floor or ground space allows a parallel approach to an element and the high side reach is over an obstruction, the height of the obstruction shall be 34 inches maximum and the depth of the obstruction shall be 24 inches maximum. The high side reach shall be 48 inches maximum for a reach depth of 10 inches maximum. Where the reach depth exceeds 10 inches, the high side reach shall be 46 inches maximum for a reach depth of 24 inches maximum.

Plaintiff submits that Defendants should be required to comply with the foregoing removal of architectural barriers within ninety (90) days. Plaintiff is also seeking an award for costs and reasonable attorney's fees for the prosecution of this action.

10. This Court has original jurisdiction over the action pursuant to 28 U.S.C. §§1331 & 1343 for Plaintiffs' claims arising under 42 U.S.C. §12181, et seq., based on Defendants' violations of Title III of the Americans with Disabilities Act (see also, 28 U.S.C. §2201 and

§2202). Plaintiff respectfully requests that the Court Grant the Motion for Default Judgment in the above captioned matter, as pursuant to 42 U.S.C., Section 12181(a).

11. The Plaintiff has been obligated to retain undersigned counsel for the filing and prosecution of this action. The Plaintiff is entitled to reasonable attorney's fees, costs, and expenses paid by Defendant pursuant to 42 U.S.C., Sections 12205 and 12207. Plaintiff requests that the Court reserve ruling on attorney's fees and allows the Plaintiff 180 days to finalize a motion to tax reasonable attorney's fees and costs after attempting to prompt Defendants' compliance or to attempt to enforce any final default judgment entered which includes injunctive relief. The Plaintiff's proposed final default judgment requests that the Defendant be given 90 days from the date of the order to comply with the remediations stated therein. Undersigned will undoubtedly expend additional time and costs in serving any final default judgment and attempting to prompt Defendants' compliance with or attempting to enforce the same. Any amount of fees and costs requested at this time would be incomplete and would require a secondary motion to tax the additional costs and fees to be incurred. In the interest of preserving the Court's time and resources, and in the interest of only filing one of the same type of motion, it is reasonable to wait to move to tax costs and award fees until the majority of the time and costs have already been expended and any minimal anticipated costs and fees can be reasonably estimated.

12. Maria-Costanza Barducci, Esq., hereby declares under penalty of perjury, that the foregoing is true and accurate to the best of her knowledge and belief; that the injunctive relief requested is appropriate and proper, and further, that the attorney's fees and, costs, and expenses sought to be taxed will necessarily be made and included in this action.

WHEREFORE, Plaintiff requests that the Court Grant the Motion for Default Judgment in this matter, as against both non-answering Defendants, and that the Judgment be entered in favor of Plaintiff in all respects as sought, and against the Defendant, **Conandy Realty LLC** and Defendant **Roma Crew Inc.** in the manner stated herein.

28 U.S.C. § 1746 VERIFICATION

Under penalties of perjury, I declare that I have read the foregoing Affirmation of Maria-Costanza Barducci in Support of the Notice of and Motion for Fed. R. Civ. P. 55 Default Judgment and that the facts stated thereunto are true and accurate.

Dated: August 28, 2023

Respectfully Submitted,

BARDUCCI LAW FIRM, PLLC
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New York, New York 10011
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MC@BarducciLaw.com

By: s/Maria-Costanza Barducci
Maria-Costanza Barducci, Esq.
Attorney for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY certify that on August 28, 2023, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF filing system upon all parties of record, as well as, via

mail upon Defendants at the following addresses:

Conandy Realty LLC

166-25 POWELLS COVE BLVD,
WHITESTONE, NY, 11357

Via USPS Priority Mail

Roma Crew Inc.

162-21 86TH ROAD,
JAMAICA, NY, 11432

Via USPS Priority Mail

By: s/Maria-Costanza Barducci
Maria-Costanza Barducci, Esq.
Attorney for Plaintiff